IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

Bail Appl..No. 6083 of 2007()

CRIME NO.201/07 OF VELLATHUVAL POLICE STATION, IDUKKI

PETITIONERS : ACCUSED:

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1. JOHNSON, S/O.JOHNY, AGED 18,
THOTTUNGAL, KALLAR, 12 ACRE, VATTIYAR P.O.,
IDUKKI.

2. RAJESH.B, S/O.BHASKARAN, AGED 28,
KOYIPPALLITHEKKATHIL, KALLAR,
VATTIYAR P.O., KARADIPARA, IDUKKI.

BY ADV. SRI.KRISHNADAS P. NAIR

RESPONDENTS:

STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6083 of 2007

Dated this the 8th day of October, 2007

ORDER

Application for anticipatory bail. Petitioners are accused 1 and 2. Altogether there are 3 accused persons. The petitioners face allegations under Section 326 r/w 34 I.P.C. The defacto complainant is a Tamil labourer working in Kerala. The petitioners allegedly picked up a quarrel with the defacto complainant. The defacto complainant was allegedly attacked with wooden reapers causing a fracture - fracture of nasal bone, to the victim. The alleged incident took place on 27.08.07. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. Anticipatory bail may, in these circumstances, be granted to the petitioners, it is prayed. The application is opposed by the learned Public Prosecutor . Allegations are serious. The injury suffered includes a fracture. There are no circumstances to justify the prayer for the invocation of the discretion under Section 438 Cr.P.C. The petitioners may be directed to surrender before the Investigating Officer or the learned Magistrate and seek regular bail , submits the learned Public Prosecutor .

3. I find merit in the opposition by the learned Public Prosecutor. I am unable to find any features in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. The petitioners, I agree with the learned Public Prosecutor, must surrender before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

4. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioners surrender before the Investigating Officer or the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-